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SEVENTH EIGHTH CONGRESS
Congress of the United States
House of Representatives
COMMERCE, CONSUMER, AND MONETARY AFFAIRS
SUBCOMMITTEE

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MAJORITY (1207) 278-4407

OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-377
WASHINGTON, D.C. 20515

March 24, 1983

Hon. Roscoe Egger, Jr.
Commissioner
Internal Revenue Service
Washington, D. C. 20224

Dear Mr. Commissioner:

Your testimony is requested at a hearing by the Subcommittee on Commerce, Consumer, and Monetary Affairs into the use of offshore tax haven/tax treaty countries, such as the Netherlands Antilles, by U.S. and foreign persons to evade U.S. tax laws; the adequacy of IRS operations for the collection of taxes on income generated in the United States that is sent offshore; and, the extent of tax losses resulting from misuse of tax havens. The hearing will focus on IRS actions to combat the use of the Netherlands Antilles by tax evaders, tax shelter promoters, narcotics traffickers and third country "treaty shoppers" to avoid paying U.S. taxes. Specifically, we will examine how IRS (1) ensures that tax treaties are not used to facilitate tax evasion; (2) utilizes information from both domestic and foreign sources in tax audits and investigations to identify the use of offshore transactions to evade U.S. taxes; and (3) has improved information gathering and sharing between the U.S. and the Antilles.

I request that you appear and testify on April 13, 1983, at 9:30 A.M. in room 2247, Rayburn House Office Building.

Your testimony should address the following:

1. a. Describe each income information document (reports and forms) reflecting or substantiating payment to a Netherlands Antilles recipient of interest, dividend, real estate capital gain, rents, royalties and other income. Include reports and forms filed or prepared by the U.S. payer (such as Forms 1042 and 1042S), the recipient of the income (such as Form 1001), any Netherlands Antilles public or private entity (such as the VS-3) and the IRS (Form 5335).
- b. Describe the purpose of each of the above reports and forms; how each is used by IRS for tax administration purposes, including document matching, regular tax audits and investigations; the extent to which each has been used by IRS from 1978 to the present; and, the limitations of each for tax administration purposes.

- c. Set forth the tax withholding requirements and tax rates on each type of income that could be paid to a Netherlands Antilles recipient. Contrast the Antilles withholding requirements and rates with withholding and rates on identical income paid to (i) U.S. recipients and (ii) nontax treaty country recipients.
2. Describe (a) the reporting and withholding requirements of the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) and set forth specifically how these requirements have been or are being implemented by IRS with respect to Netherlands Antilles transactions and (b) how IRS will identify owners of U.S. real property registered through Netherlands Antilles entities who do not voluntarily comply with the reporting and security provisions of FIRPTA.
3. Describe how IRS utilizes the Agriculture Foreign Investment Disclosure Act information in its regular tax audits and investigations relating to Netherlands Antilles transactions.
4. In order for a person or entity to receive reduced withholding and rates under the U.S./Netherlands Antilles tax treaty, the Antilles recipient of U.S. source income must file with the U.S. payer, a "VS-3" form (Antilles Government Certificate) which certifies that the recipient is entitled to the reduced withholding. How many of these forms have been examined by IRS for each year, 1978 to the present? With what results? Can the IRS rely on the accuracy and validity of these forms? If not, why not? To what extent have these forms assisted the Service in its efforts to deny Antilles tax treaty benefits to persons or entities not entitled to them?
5. Describe the criteria utilized by IRS for determining whether it will open a tax investigation of persons indicted by federal or state authorities for crimes involving large sums of money (i.e., narcotics) when a Netherlands Antilles or other tax haven entity has been used? For each year 1978 to the present, set forth the number of such investigations opened by the Service and the resulting tax consequences.
6. For each year, 1978 to the present, provide responses to the following showing separately, for each, information pertaining to (i) the Netherlands Antilles and (ii) other tax havens:
 - a. the amount of income and the associated tax loss on income sheltered in offshore tax havens by U.S. taxpayers;
 - b. the number of income tax audits and criminal tax investigations that involved the use of Netherlands Antilles and other tax haven companies, financial entities, bank accounts or other transactions to evade U.S. tax laws;
 - c. the amount of additional tax (i) assessed and (ii) collected, and the value of financial accounts or other property seized resulting from the above tax audits and criminal investigations;
 - d. the number of income tax audits and investigations that could have been -- but were not -- initiated and/or completed because information and records crucial to the cases could not be obtained. Provide examples of the type of data involved and why the data was denied;

- e. the number of Title 26 investigations involving the use of the Netherlands Antilles and other tax haven entities initiated by IRS or participated in as part of other law enforcement efforts that were sent to the Justice Department for approval, and the number pending at or declined by Justice; and
 - f. the number of Title 26 investigations that involved the use of offshore entities that IRS could have initiated but did not because of concern that Justice would not approve the case.
7.
 - a. Describe all current income or other "information gaps" and improvements needed in the present system for reporting of international transactions to, through and from the Antilles that would facilitate (i) identifying and (ii) gaining access to information on U.S. or third country person offshore transactions (including Sec. 861 interest income) for tax evasion purposes.
 - b. With respect to the exchange of information provision in the U.S.-Netherlands Antilles tax treaty, will the current U.S. negotiating position on the need for improvement in (i) the identification of the beneficial owners of Antillean "bearer share" corporations and financial accounts and (ii) U.S. access to such information fully permit IRS to identify taxes due the U.S. Treasury on transactions to, through and from the Antilles that are subject to U.S. taxation? If not, what types of transactions, accounts or corporations would be excluded?
 8. Set forth the number and general nature of any tax audits or investigations from 1976 to the present, of U.S. persons suspected of failing to pay taxes on interest earned from purchasing so-called Eurobonds. Please estimate the amount involved and the probable tax loss from the purchase of such Eurobonds by U.S. taxpayers and third country persons and entities.
 9. Please state the number, nature of and reasons for IRS audits of Eurobond sales through Antilles finance subsidiaries owned by U.S. corporations, such as the audit of Texas International Corporation.
 10. Set forth the number of private and published revenue rulings and procedures IRS has issued since July 1, 1974, relating to entities in the Netherlands Antilles. Please characterize in a general way the types of questions and issues addressed in these rulings and procedures, including the issue of treaty shopping.

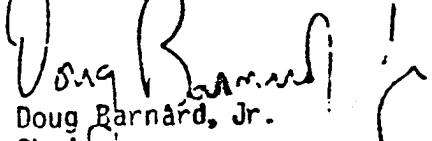
In preparation for the hearings, please submit to the subcommittee no later than April 4, 1983, the following materials:

- A. Information requested in questions number 1 through 5 of the subcommittee's letter to you dated December 17, 1982.
- B. Copies of memos, letters and other documents describing the newly initiated task force with the Customs Service to identify U.S. taxpayers who are using tax haven countries to evade U.S. taxes.
- C. Statistics showing the amount of Form 1042 income reported to IRS in 1981 and the tax withheld by country, by type of income.

- D. The most recent copy of proposed regulations to implement the Foreign Investment in Real Property Tax Act of 1980.

Have your staff contact Peter S. Barash, the subcommittee staff director, if there are any questions. Please provide the subcommittee with five copies of your written testimony and attachments, if any, no later than April 8, 1983. Bring with you to the hearing 75 copies of your testimony. I look forward to your testimony and thank you for your cooperation.

Sincerely,


Doug Barnard, Jr.
Chairman

DB:dts:b